

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

DONALD SCHALLER,

Plaintiff,

v.

McDERMOTT & MILLER, P.C.

EMPLOYEES PENSION PLAN;

McDERMOTT & MILLER, P.C.;

BRADLEY L. FEGLEY, Administrator

and Trustee; MICHAEL A. WALENZ,

Administrator and Trustee; THOMAS

B. KRUGER, Administrator and

Trustee; THOMAS G. KRUGER,

Administrator and Trustee; RUSSELL

H. LOEWENSTEIN, Administrator and

Trustee; and DAVID J. FAIMON,

Administrator and Trustee,

Defendants.

CASE NO. 8:06CV276

ORDER VACATING JUDGMENT

This matter is before the Court on the parties' joint oral motion to vacate the judgment and to grant the Plaintiff 30 days within which to satisfy the condition set forth in the Offer of Judgment. The Court finds that the motion should be granted.

IT IS ORDERED:

1. The judgment entered on July 17, 2007, at Filing No. 42, is vacated;
2. The Defendants' offer of judgment and the Plaintiff's acceptance of the offer, which are contained in Filing No. 41, are approved;
3. The Plaintiff shall satisfy the condition described in the Offer of Judgment on or before August 17, 2007;
4. The Defendants shall file a notice of satisfaction, informing the Court that the Plaintiff satisfied the condition described in the Offer of Judgment, within one week after the condition is satisfied; and

5. A separate judgment shall be filed thereafter.

DATED this 17th day of July, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge